

|  |   |   |   |   |             |
|--|---|---|---|---|-------------|
| <b>REQUEST FOR COUNCIL ACTION</b><br>CITY OF SAN DIEGO   |   |   |   | CERTIFICATE NUMBER<br>(FOR COMPTROLLER'S USE ONLY)<br>N/A |             |
| TO:<br>CITY COUNCIL  |   | FROM (ORIGINATING DEPARTMENT):<br>Park and Recreation |   | DATE:<br>06/27/2013                                       |             |
| SUBJECT: Establish a special interest-bearing fund for Marian Bear Memorial Park   |   |   |   |   |             |
| PRIMARY CONTACT (NAME, PHONE):<br>Meredith Dawson ,619-525-8217 & MS37C  |   |   | SECONDARY CONTACT (NAME, PHONE):<br>Kathy Ruiz, 619-235-5913 & MS39 |   |             |
| COMPLETE FOR ACCOUNTING PURPOSES   |   |   |   |   |             |
| FUND   |   |   |   |   |             |
| DEPT / FUNCTIONAL AREA   |   |   |   |   |             |
| ORG / COST CENTER  |   |   |   |   |             |
| OBJECT / GENERAL LEDGER ACCT   |   |   |   |   |             |
| JOB / WBS OR INTERNAL ORDER  |   |   |   |   |             |
| C.I.P./CAPITAL PROJECT No.   |   |   |   |   |             |
| AMOUNT   | 0.00  | 0.00  | 0.00  | 0.00  | 0.00        |
|  |   |   |   |   |             |
| FUND   |   |   |   |   |             |
| DEPT / FUNCTIONAL AREA   |   |   |   |   |             |
| ORG / COST CENTER  |   |   |   |   |             |
| OBJECT / GENERAL LEDGER ACCT   |   |   |   |   |             |
| JOB / WBS OR INTERNAL ORDER  |   |   |   |   |             |
| C.I.P./CAPITAL PROJECT No.   |   |   |   |   |             |
| AMOUNT   | 0.00  | 0.00  | 0.00  | 0.00  | 0.00        |
| COST SUMMARY (IF APPLICABLE):  |   |   |   |   |             |
| ROUTING AND APPROVALS  |   |   |   |   |             |
| CONTRIBUTORS/REVIEWERS:  |   | APPROVING AUTHORITY                                   |   | APPROVAL SIGNATURE  | DATE SIGNED |
| Environmental Analysis   |   | ORIG DEPT.  |   | LoMedico, Stacey  | 6/28/2013   |
| Liaison Office   |   | CFO   |   |   |             |
| Park and Recreation  |   | DEPUTY CHIEF  |   |   |             |
| Financial Management   |   | COO   |   |   |             |
| Comptroller  |   | CITY ATTORNEY   |   | Vacchi, Robert  |             |
|  |   | COUNCIL PRESIDENTS OFFICE                             |   |   |             |
| PREPARATION OF:  | <input checked="" type="checkbox"/> RESOLUTIONS | <input type="checkbox"/> ORDINANCE(S)                 | <input type="checkbox"/> AGREEMENT(S)                               | <input type="checkbox"/> DEED(S)                          |             |
| That the Chief Financial Officer is authorized to establish a special interest-bearing fund to support trust funds received exclusively for Marian Bear Memorial Park. |   |   |   |   |             |

That the Chief Financial Officer is authorized to accept and deposit approximately \$145,000 in donated funds into the special fund to support Marian Bear Memorial Park.

That the Chief Financial Officer is authorized to expend and disburse interest and principle from the special fund to support operations and maintenance for Marian Bear Memorial Park.

**STAFF RECOMMENDATIONS:**

Approve Requested Actions

**SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION)**

|                             |  |
|-----------------------------|--|
| COUNCIL DISTRICT(S):        | 1,6  |
| COMMUNITY AREA(S):          | Marian Bear Memorial Park  |
| ENVIRONMENTAL IMPACT:       | This activity is not a project and, therefore, not subject to CEQA per CEQA Guideline Section 15060(c)(3). |
| CITY CLERK<br>INSTRUCTIONS: |  |

**COUNCIL ACTION  
EXECUTIVE SUMMARY SHEET  
CITY OF SAN DIEGO**

DATE: 06/27/2013

ORIGINATING DEPARTMENT: Park and Recreation

SUBJECT: Establish a special interest-bearing fund for Marian Bear Memorial Park

COUNCIL DISTRICT(S): 1,6

CONTACT/PHONE NUMBER: Meredith Dawson /619-525-8217 & MS37C

**DESCRIPTIVE SUMMARY OF ITEM:**

This action is to authorize establishment of a special interest-bearing fund to manage a substantial donation being made to Marian Bear Memorial Park via a private trust.

**STAFF RECOMMENDATION:**

Approve Requested Actions

**EXECUTIVE SUMMARY OF ITEM BACKGROUND:**

Marian Bear Memorial Park is located in San Clemente Canyon stretching from Interstate 5 to Interstate 805. The park provides a natural setting in the midst of a bustling urban area. The 467 acres of dedicated natural parkland include finger canyons and mesas on the south side with a rich and diverse history.

The Park and Recreation Department was contacted in March 2013 by The Private Trust Company, stating that the City will receive an outright distribution of sixteen and two-thirds percent (16 2/3%) of the Trust assets from the Haruko Hayashi Quirk Trust (which amounts to approximately \$145,000). Ms. Quirk passed away in April 2012 and was fond of her walks in the beautiful urban forest of Marian Bear Memorial Park. The Trust states that the funds are restricted to expenditures for Marian Bear Memorial Park only. The Park and Recreation Department requests that the City Comptroller be authorized to establish a special interest-bearing fund to manage this substantial donation being made to Marian Bear Memorial Park via this private trust.

**FISCAL CONSIDERATIONS:**

The funds have not yet been received by the City. The payment of these funds is expected to be made in two partial distributions once the trust release documents have been executed by all designated trustees. It is anticipated that these funds will be spent in the next 3-5 years, once Marian Bear Park operation and maintenance needs have been assessed.

**EQUAL OPPORTUNITY CONTRACTING INFORMATION (IF APPLICABLE):** Not applicable

**PREVIOUS COUNCIL and/or COMMITTEE ACTION** (describe any changes made to the item from what was presented at committee): Not applicable

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:** Not applicable

KEY STAKEHOLDERS AND PROJECTED IMPACTS: Key stakeholders include residents and hiking enthusiasts throughout San Diego who enjoy Marian Bear Memorial Park.

LoMedico, Stacey

Originating Department

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Deputy Chief/Chief Operating Officer



THE CITY OF SAN DIEGO

May 23, 2013

The Private Trust Company, N.A.  
Attn: Katharine N. McHale, Esq.  
1422 Euclid Ave. Suite 1130  
Cleveland, OH 44115

**Re: The Haruko Hayashi Quirk Trust – Marian Bear Memorial Park, City of San Diego**

Dear Ms. McHale:

Thank you for notifying us regarding the generous donation being made to Marian Bear Memorial Park. Ms. Quirk's commitment to preserve the beauty of this urban parkland in the San Diego community is greatly appreciated. Enclosed please find the requested documents as they pertain to the trust funds designated to Marian Bear Memorial Park. The contract documents have been reviewed and approved by Mayor Bob Filner, and executed by the Acting City's Chief Operating Officer, Scott Chadwick.

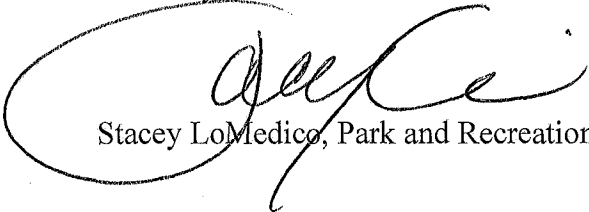
Since the use of these funds is restricted to Marian Bear Memorial Park, we request that these fund distributions be sent directly to the City of San Diego, Park and Recreation Department:

**City of San Diego  
Park and Recreation Department  
Attn: Stacey LoMedico, Park and Recreation Director  
202 C. Street, MS 37C  
San Diego, CA 92101**

Ms. Quirk's generous donation will help us to continue our mission to operate and maintain Marian Bear Memorial Park for San Diego residents and visitors alike, and preserve it for future generations.

Should you have any questions, please contact Meredith Dawson, Grants Program Manager at (619) 525-8217 or DawsonM@sandiego.gov.

Sincerely,

  
Stacey LoMedico, Park and Recreation Director

**Administrative Services Division • Park and Recreation**

202 C Street, MS 37C • San Diego, CA 92101

Tel (619) 525-8213 Fax (619) 525-8220

[www.sandiego.gov](http://www.sandiego.gov)

*"We enrich lives through quality parks and programs"*



## **DISCLOSURE STATEMENT AND AGREEMENT**

### **CUSTOMER NOTIFICATION OF SECURITIES TRANSACTIONS**

The Comptroller of the Currency has published regulation 12 CFR 12.4 which requires that we furnish, without any additional cost to you, written notification of any security transaction in your account. The notification must be sent within five (5) business days from the date of the transaction or from the date we receive the broker/dealer confirmation. Regulation 12 CFR 12.5 does permit an alternate agreement between you and us where notification of a security transaction can be furnished within a greater time period. As a result, we can provide you with a periodic consolidated statement of security transactions in your account if you direct us to do so. We will make the time of execution on any reported security transaction available to you upon written request, so that our alternate procedure of notification will be in compliance with the regulation. Statement market values will be based on the best available information at the statement date but cannot be guaranteed. A duplicate of this periodic statement will be sent to your financial advisor.

### **SHAREHOLDER'S COMMUNICATIONS ACT**

In addition, the Shareholders Communications Act requires that we disclose your name, address and securities positions to issuers of securities in your account unless you alternatively direct us not to do so. The Comptroller has informed us that you must affirmatively agree to these alternate procedures. This affirmative agreement may be made by signing this letter below.

### **CUSTODIAL ARRANGEMENT**

We use the custodial services of LPL Financial, the money market funds of J.P Morgan (a prospectus is available on request), and money market deposit accounts, also known as insured cash accounts, offered through LPL Financial, for cash sweep. All cash is invested on a daily basis. We do not charge additional compensation for cash transactions, but our affiliates may receive fees from the J.P. Morgan money market funds or the money market deposit (insured cash) accounts.

### **DELEGATION OF INVESTMENT MANAGEMENT FUNCTIONS**

We retain the duty to vote all proxies for shares held in our accounts, even in cases where all investment management functions have been delegated to a third party. Greg Ratchuk, a financial advisor with LPL Financial, is hereby designated as the Investment Advisor to the Trust and all investment management functions, other than voting proxies, are delegated to him/her. The Investment Advisor in exercising his/her investment management functions will comply with PTC's Standards of Acceptability, PTC's Concentration Standards and the active Investment Policy Statement.

## **AFFILIATE ENGAGEMENT AND COMPENSATION FROM TRUST ASSETS**

The Private Trust Company, N.A. shall have the continuing power, in addition to and not in substitution for all powers conferred on the Trustee in the trust document and by law, in its sole and absolute discretion without Court order or further approval, to engage any appropriately licensed and registered person, corporation, partnership or other entity affiliated with The Private Trust Company, N.A., or its parent, affiliate(s) or subsidiaries, including LPL Financial, or a LPL Financial Advisor, to render services to the Trust for compensation (to be paid from Trust assets) as disclosed in the attached exhibit to this disclosure, including, without limitation: investment management services; brokerage services; clearing services; custodial services; and any other service(s) deemed necessary by The Private Trust Company, N.A., related to the administration of the Trust. None of the compensation arrangements described above shall reduce the compensation, which the Trustee receives as trustee under the Trust, nor the compensation which its affiliate(s) receives.

### **FEES**

#### **INVESTMENT ADVISOR FEES**

In addition to the Trustee fees outlined below, your Financial Advisor, Greg Ratchuk, will charge a fee to the Trust for his/her investment services, including a .75% wrap fee for the SAM account investment platform. *In addition, there may be additional fees for certain investment platforms and there may be fees associated with the types of assets held in the Trusts.* Please refer to your Financial Advisor and to the attached LPL Disclosure Agreements (*i.e., the SAM Client Agreement and Master Account Agreement*) concerning financial advisor fees.

#### **TRUSTEE FEES**

Corporate Trustee fees for PTC are charged quarterly in advance in accordance with the attached fee schedule as modified from time to time. A current fee schedule is available upon request. The actual amount of the debit is calculated on the fair market value of the assets on the last business day of each calendar quarter; the resulting amount is divided by four, and then split in half between income and principal. The debit will post approximately three weeks after the close of each calendar quarter. New accounts will be valued upon opening and fees pro-rated based upon the number of days remaining in the quarterly period. Closing accounts will be credited back for that portion of the fee pro-rated based upon the number of days remaining in the quarterly period from the date the account is terminated.

## LPL FINANCIAL FEES

LPL Financial may charge a fee to the trust in accordance with the attached fee schedule as modified from time to time.

## USE OF THIRD PARTY VENDORS

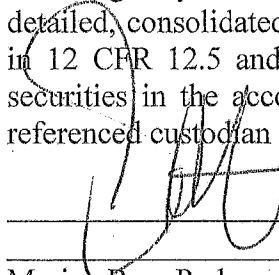
In our ongoing efforts to better serve our clients, the Bank engages the services of various vendors to handle securities processing, trading, and custodial functions. Generally the Bank incurs the costs of these vendor services and occasionally receives recordkeeping fees or rebates from fund companies or vendors that are used to offset or reduce the cost of these services. In addition, a vendor has been retained to manage the processing and collection of class action securities claims on behalf of client accounts. If a claim paid, the vendor will assess a 20% contingency fee at the time of payment.

## RELEASE REGARDING ACTS OF PRIOR TRUSTEES

I have received and reviewed all statements and am familiar with the prior administration of this Trust. I hereby agree that PTC as successor trustee shall not be responsible for the acts or omissions of any prior trustee, and shall have no duty to investigate the accounts, investments, or administration of any prior trustee because I do not believe such an investigation is warranted or that the Trust should incur the expense of doing so.

## ACKNOWLEDGEMENT

Until I give you written notice to the contrary, I desire that you provide me with a periodic, detailed, consolidated customer statement as an alternative agreement between us as prescribed in 12 CFR 12.5 and not to disclose my name, address and securities positions to issuers of securities in the account. In addition, I acknowledge, understand and consent to the above-referenced custodian arrangement, delegation of investment management functions and fees.

  
\_\_\_\_\_, obo

Marian Bear Park

*Scott Chadwick*  
*COO*

*522-13*

Date



**THE HARUKO HAYASHI QUIRK (IR)REVOCABLE TRUST,  
DATED FEBRUARY 18, 1999, AS AMENDED  
RECEIPT, APPROVAL AND RELEASE**

We, the undersigned, Reiko Hayashi, Tanya DeForest, Marion Bear Park, the Scripps Institution of Oceanography, and the Yosemite Conservancy, for ourselves and our successors, heirs, estates and assigns, being all the known parties-in-interest to the above captioned trust dated February 18, 1999 (the "Trust"), for the purpose of inducing The Private Trust Company, N.A. (the "Trustee"), to distribute all principal and income of the Trust without court approval, hereby acknowledge, represent and agree as follows:

1. We acknowledge that the Trustee can petition a court of competent jurisdiction for approval of a fully detailed accounting of all its actions as Trustee of the Trust and we hereby request that it refrain from so doing.

2. We are satisfied that the property listed on the Trustee's most recent account statement, attached hereto and made a part hereof, constitutes all of the assets of the Trust as of this date; subject, however, to any claims for taxes or other liabilities not now asserted.

3. We approve the Trustee's distribution to Reiko Hayashi, Tanya DeForest, Marion Bear Park, the Scripps Institution of Oceanography, and the Yosemite Conservancy, the beneficiaries of the Trust, of all principal assets and income of the Trust less a reasonable amount for expenses, taxes or other liabilities attributable to the Trust, and incidental costs related to the Trustee's winding up of its administration of the Trust.

4. We release the Trustee from all liability, loss and expense (including but not limited to costs and attorney's fees), which may be incurred as a result of the Trustee's administration or investment of the Trust.

5. We agree to cooperate to the extent necessary so that any expenses, taxes or other amounts properly chargeable against the Trust are reimbursed to the Trustee from the assets of the Trust which have been distributed.

Date: \_\_\_\_\_

Name: Reiko Hayashi

Date: \_\_\_\_\_

Name: Tanya DeForest

Date: 5/22/13

Name: ERIC CHADWICK obo  
Marion Bear Park

Date: \_\_\_\_\_

Name: \_\_\_\_\_ obo  
Scripps Institution of Oceanography

Date: \_\_\_\_\_

Name: \_\_\_\_\_ obo  
Yosemite Conservancy

**Request for Taxpayer  
Identification Number and Certification**

Give Form to the  
requester. Do not  
send to the IRS.

Print or type  
See Specific Instructions on page 2.

|  |   |
|--|---|
| Name (as shown on your income tax return)<br><b>City of San Diego</b>  |   |
| Business name/disregarded entity name, if different from above   |   |
| Check appropriate box for federal tax classification (required):<br><input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate<br><input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶<br><input checked="" type="checkbox"/> Other (see instructions) ▶ |   |
| <b>Government Municipality</b>   |   |
| Address (number, street, and apt. or suite no.)<br><b>202 C Street</b>   | Requester's name and address (optional) |
| City, state, and ZIP code<br><b>San Diego, CA 92101</b>  |   |
| List account number(s) here (optional)   |   |

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

|                        |  |  |   |  |  |   |  |  |
|------------------------|--|--|---|--|--|---|--|--|
| Social security number |  |  |   |  |  |   |  |  |
|                        |  |  | - |  |  | - |  |  |

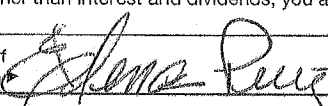
|                                |   |   |   |   |   |   |   |   |
|--------------------------------|---|---|---|---|---|---|---|---|
| Employer identification number |   |   |   |   |   |   |   |   |
| 9                              | 5 | - | 6 | 0 | 0 | 0 | 7 | 7 |

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

**Sign Here**    Signature of U.S. person 

Date ▶ **3/17/11**

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Purpose of Form**

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

**Note.** If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.